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## GENERAL NOTICE

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### NOTICE 1501 OF 2008

#### DEPARTMENT OF TRADE AND INDUSTRY

#### CODES OF GOOD PRACTICE ON BROAD BASED BLACK ECONOMIC EMPOWERMENT

I, **Mandisi Mphahlele**, Minister of Trade and Industry, hereby :

- (a) Issue for public comment, the draft Construction Code (The Draft Code) as provided for in Code 000 Statement 003 of the Codes of Good Practice under **Section 9(5)** of the Broad-Based Black Economic Empowerment (Act No. 53 of 2003); and
- (b) Invite interested persons and the public to submit comments on the draft code within **60 days** from the date of this publication.

Interested parties are requested to forward their comments to the following address(es)

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or

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**MANDISI MPAHLWA**  
MINISTER OF TRADE AND INDUSTRY

Date: 11-10-2008

**THE AGREED IMC DOCUMENT****PROPOSED CONSTRUCTION CODES: 2000-2800 (DRAFT 1)**

This document contains proposed construction sector codes for the purpose of a DTI submission for a sectoral code. The changes to the original document have been based on the independent third party review. Where-ever it is applicable and/or possible the construction codes align with the DTI codes 000-800. The codes in this document capture the relevant scorecard and the body of the text deals for the most part with differences.

The document articulates the sector specific differences in the codes. The clauses are to be read in conjunction with the DTI Codes. Where differences occur the sector specific clauses shall take precedence.

## Arrangement of the Codes

Code or Section	Page
Code 2000: The Framework	3
Code 2100: Ownership	6
Code 2200: Management Control	7
Code 2300: Employment Equity	8
Code 2400: Skills Development	10
Code 2500: Preferential Procurement	14
Code 2600: Enterprise Development	15
Code 2700: Socio-Economic Development	19
Code 2800: Qualifying Small Enterprise	20
Statement 2801: Ownership	20
Statement 2802: Management Control	21
Statement 2803: Employment Equity	21
Statement 2804: Skills Development	21
Statement 2805: Preferential Procurement	22
Statement 2806: Enterprise Development	22
Statement 2807: Socio Economic Development	22
Interpretation and Definitions	23
Appendix A: Substantiating Documentation of Code 2000-2800	25

## Code Series 2000: The Framework for Measuring Broad-Based Black Economic Empowerment in the Construction Sector

### Statement 2000: General Principles

#### 1. Objective

- a. To specify the basic principles upon which Code 2000 has been premised.

#### 2. Key Principles

- a. Code 2000 is based upon Code 000, Statement 000 published in the Government Gazette No 29617.
- b. Code 2000 to 2800 identifies the basic principles, definitions and methodologies adopted in the Construction Sector **only where these principles, definitions and methodologies differ** from the Code 000 to Code 800 as published in the Government Gazette No 29617.
- c. The differences stipulated in Code 2000 to 2800 are to be read in conjunction with and where there is any conflicts take precedence to the clauses in Code 000 to Code 800 as published in the Government Gazette No 29617.
- d. There are no bonus points applicable in Code 2000-2800.

#### 3. Application of the Codes

- a. Any measured entity which conducts any construction-related activities, must determine what percentage of its annual turnover is derived from construction activities;
- b. If the majority of the measured entities turnover is derived as a result of construction related activities, then the Charter will apply to such measured entity;
- c. If a measured entity does not derive the majority of its turnover from the construction sector, then the Charter will not apply to such measured entity and the measured entity will be governed by any other sector code which may be applicable, failing which the generic DTI Codes will apply;
- d. In the event that a measured entity derives an equal percentage of its turnover from construction related activities as well as other industry-related activities, then such measured entity will have the choice as to which sector code will apply.

## 4. Eligibility as an Exempted Micro Enterprise and Qualifying Small Enterprise

- a. Code 2000 complies with the principles and methodology in Code 000 unless specifically stated in table below.

Scorecard Types:	Exempted Micro Enterprise	Qualifying Small Enterprise	Generic Construction
<b>Discipline</b>	Parameters are based on annual turnover of the Measured Entity		
<b>Contractor</b>	0 – 5 million Rand	Larger than 5 million and equal to or less than 35 million Rand.	Larger than R35 million Rand
<b>BEP</b>	0 – 1.5 million Rand	Larger than 1.5 million and equal to or less than R11.5 million rand	Larger than R11.5 million

- b. An Exempted Micro Enterprise (EME) will qualify for recognition as indicated in the DTI Codes, Statement 000, page 9.
- c. A Qualifying Small Enterprise must select any four of the seven Elements of B-BBEE for the purpose of measurement under the Qualifying Small Enterprise Scorecard contained in Code 2800.
- d. In the Generic Construction Scorecard all elements will be applicable for measurement.

## 5. The Generic Construction Scorecard Element Weightings

Element	Weighting		Code Series Reference
	Contractors	Built Environment Professionals	
Ownership	25	25	2100
Management Control	10	10	2200
Employment Equity	10	10	2300
Skills Development	15	20	2400
Preferential Procurement	20	20	2500
Enterprise Development	15	10	2600
Socio-Economic Development Initiatives	5	5	2700

## 6. Duration of the Codes

- a. The Minister will review Code 2000 to 2800 following the end of the seventh year following the commencement date of this statement; despite the aforementioned, annual reviews

commissioned by the Construction Charter Council (hereafter referred to as the Charter Council) will take place to monitor the implementation of B-BBEE throughout the sector.

7. Construction Sector commitments related to Code 2000 to 2800 is captured in the Construction Sector Charter published in Government Gazette No. 29616, paragraph 5.1 to 5.7. Where any of the principles contained in the Construction Sector Charter deviate from Code 2000-2800 this Code must be applied.
8. The Scoring of Unincorporated Joint Ventures
  - a. In respect of an unincorporated joint venture, being a joint venture between two or more measured entities, which is not constituted in the form of an incorporated juristic person, a consolidated verification certificate must be submitted. A consolidated verification certificate will consolidate compliance data in respect of all the elements in the construction scorecard of the parties entering into an unincorporated joint venture on a single verification certificate as if those measured entities were a single measured entity.
  - b. The consolidation of compliance data shall be based on a weighting in accordance with the shareholder agreement relevant to the specific joint venture. Hence should two companies enter into an unincorporated joint venture their respective scores in terms of the construction charter will be weighed according to their level of shareholding in the joint venture and added together for a combined score out of 100.
  - c. Should a company qualify in terms of the Qualifying Small Enterprise Scorecard its BEE compliance level (a figure out of 100) must be used to calculate the consolidated score.
  - d. An EME with a Black shareholding of 50% or less will qualify for a score of 70 and an EME of a Black shareholding of more than 50% will qualify for a score of 80.
9. In its entirety Code 2000-2800 pertains to South African operations.
10. The Transitional Phase is applicable to Code 2000 for the first year after the commencement of Statement 2000 on the same calculation principle articulated in paragraph 11 (Code 000, P12), though the calculation will be:  $A = B \times 1.65$ .
11. Any sector specific programmes applicable to Code 2600, 2700, 2806 and 2807 will be published by the Charter Council.
12. Code 2000-2800 distinguishes in certain instances between Built Environment Professionals (BEP) and Contractors in respect of targets, weightings and methodology. The application of these differences is not interchangeable between these disciplines.

## Code Series 2100: Measurement of Ownership Element of Broad-Based Black Economic Empowerment

Statement 2100: The General Principles for Measuring Ownership

### 1. The Ownership Scorecard

Category	Ownership Indicator	Weighting points	Compliance Target
<b>1.1 Voting Rights:</b>			
	1.1.1 Exercisable Voting Rights in the Enterprise in the hands of Black People	4	30%
	1.1.2 Exercisable Voting Rights in the Enterprise in the hands of Black Women	2	10%
<b>1.2 Economic Interest</b>			
	1.2.1 Economic Interest of Black People in the Enterprise	5	30%
	1.2.2 Economic Interest of Black Women in the Enterprise	2	10%
	1.2.3 Economic Interest of the following Black Natural People in the Enterprise:	5	10% Contractors 5% BEP's
	1.2.3.1 Black designated groups; 1.2.3.2 Black Participants in Employee Ownership Schemes; 1.2.3.3 Black Beneficiaries of Broad Based Ownership Schemes; 1.2.3.4 Black Participants in Co-operatives		
<b>1.3 Realisation Points</b>			
	1.3.1 Ownership fulfillment	1	Refer to paragraph 10.1, Code 100, P28
	1.3.2 Net Value	6	Refer to Annexe C paragraph 4, Code 100, P33 and Notes on Calculations in Code 2100

### 2. Notes on Calculations

- a. The Net Value calculation referred to in Annexe C, Code 100 above:  $A=B \times (1 / (30\% \times C)) \times 6$  (6 is the weighting attributed to this indicator).

### 3. Code 100

- a. Code 2100 shall adhere to all other principles, definitions and measurement methodologies contained in Code 100, Annexes and related Statements as published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2100 shall take precedence over code 100 as published in the Government Gazette No 29617.

## Code Series 2200: Measurement of the Management Control Element of Broad-Based Black Economic Empowerment

### Statement 2200: The General Principles for Measuring Management Control

#### 1. The Management Control Scorecard

Category	Management Control Indicator	Weighting Points	Compliance Target
1.1 Board Participation:			
	1.1.1 Exercisable Voting Rights of Black Board Members using the Adjusted Recognition for Gender	5	40%
1.2 Top Management:			
	1.2.1 Black Senior Top Management using the Adjusted Recognition for Gender	5	25% (Year 0-4) 40% (Year 5-7))

#### 2. Notes on Calculation

- a. The Adjusted Recognition for Gender in Annexe 200(A), Code 200 will be applied as follows in Code 2200 (The reference to the letters remains the same as in Annexe 200(A), P48):
  - i. 1.1.1  $A=B/1.76+C$
  - ii. 1.2.1  $A=B/1.62+C$
- b. Other Top Management as referred to in Code 200 that is at a higher level of Management in the Measured Entity than what is associated with the definition of Senior Management must be counted as part of the Senior Top Management.
- c. The indication: "C is limited to a maximum of 50% of the target" in Annexe 200(B), Code 200, P49 is not applicable. The rest of the references in Annexe 200(B) apply.
- d. The responsibilities associated with executive and non-executive directors on the board are viewed to be similar.

#### 3. Code 200

- a. Code 2200 shall adhere to all other principles, definitions and measurement methodologies contained in Code 200, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2200 shall take precedence over code 200 as published in the Government Gazette No 29617.

## Code Series 2300: Measurement of the Employment Equity Element of Broad-Based Black Economic Empowerment

Statement 2300: The General Principles for Measuring Employment Equity

### 1. The Employment Equity Scorecard

<b>Contractors</b>			
Measurement Category and Criteria	Weighting Points	Compliance Target	
		Years 0 - 4	Years 5 - 7
1.1.1 Black Employees in the Senior Management Category as a percentage of all such employees using Adjusted Recognition for Gender.	3.5	25%	40%
1.1.2 Black Employees in the Middle Management Category as a percentage of all such employees using Adjusted Recognition for Gender.	3.5	30%	40%
1.1.3 Black Employees in the Junior Management Category as a percentage of all such employees using Adjusted Recognition for Gender.	2.5	65%	65%
1.1.4 Black Disabled Employees as a percentage of all office based employees using the Adjusted Recognition for Gender.	0.5	1%	2%
<b>BEP</b>			
1.1.4 Black Disabled Employees as a percentage of all office based employees using the Adjusted Recognition for Gender.	0.5	1%	2%
1.1.5 BEP: Black Employees in all Management Categories as a percentage of all such employees using the Adjusted Recognition for Gender.	9.5	30%	40%

### 2. Notes on Calculations

- a. No bonus point calculations are applicable.
- b. The Adjusted Recognition for Gender in Annexe 300(A), Code 300 will be applied as follows in Code 2300(The reference to the letters remains the same as in Annexe 300(A), P53):
  - i. 1.1.1, 1.1.2, 1.1.4 and 1.1.5  $A=B/1.62+C$
  - ii. 1.1.3  $A=B/1.66+C$
- c. Senior, Middle and Junior Management Categories are defined in this document (see Interpretations and Definitions).
- d. There is no sub-minimum requirement applicable in Code 2300.
- e. Should any Contractor not make a distinction between Middle and Junior Management Categories then only two Categories will be applicable:
  - i. Senior Management Category, weight 5.25, target as indicated;
  - ii. Junior Management Category, weight 4.25, target as indicated.

3. The Charter Council will inter alia monitor the representation of black people with disabilities in the sector.
4. For verification purposes a person can be seen as disabled should that person not be in a position to compete with his/her peers without reasonable accommodation. Therefore should a person wish not to declare their disability in terms of Employment Equity reporting, that person can be viewed as disabled should the above guideline be applicable.
5. Code 300
  - a. Code 2300 shall adhere to all other principles, definitions and measurement methodologies contained in Code 300, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2300 shall take precedence over code 300 as published in the Government Gazette No 29617.

## Code Series 2400: Measurement of Skills Development Element of Broad-Based Black Economic Empowerment

Statement 2400: The General Principle for Measuring Skills Development

### 1. The Skills Development Scorecard

Category	Skills Development Element	Weighting Points		Compliance Target
		Contractors	BEP	
1.1 Skills Development Expenditure on any program specified in the Learning Programmes Matrix (Code 400, P57)				
	1.1.1 Skills Development Expenditure on all employees as a percentage of Leivable Amount.	2	2.5	1.5%
	1.1.2 The portion of Skills Development Expenditure, spent on Black Employees, as a percentage of Skills Development Expenditure on all employees using the Adjusted Recognition for Gender	3	4	70%
	1.1.3 The portion of Skills Development Expenditure, spent on Black Employees in all Management Categories, as a percentage of the portion of Skills Development Expenditure spent on Black Employees, using the Adjusted Recognition for Gender. (See paragraph 1.b)	1.5	2	25%
1.2 Learnerships				
	1.2.1 Number of Learners participating in Learnerships or Category B, C and D programmes as a percentage of total employees. (See paragraph 1.c)	1	1.5	2.5% Contractors 1.5% BEP's
	1.2.2 Black Learnership and/or Black Category B, C and D programme participants as a percentage of total Learnerships and Category B, C and D programme participants using the Adjusted Recognition for Gender	2.5	3.5	70%
	1.2.3 Black People with disabilities participating in Learnerships and/or Category B, C and D programmes as a percentage of Black Learnerships and Black Category B, C and D programme participants using the Adjusted Recognition for Gender. This Item only applies to office based employees. (See paragraph 1.d)	1	1.5	5%
1.3 Bursaries				
	1.3.1 Scholarship and/or Bursary Expenditure on Black Students, as a percentage of Leivable Amount	2	2.5	0.3%
1.4 Mentorship				
	1.4.1 Implementation of an approved and verified mentorship programme (paragraph 3)	2	2.5	Yes to all criteria in paragraph 3

## 1. Notes on Calculations

- a. The Adjusted Recognition for Gender in Annexe 400(B), Code 400 will be applied as follows in Code 2400 (The reference to the letters remains the same as in Annexe 400(B), P58):
- i) 1.1.2  $A=B/1.2+C$
  - ii) 1.1.3  $A=B/1.71+C$
  - iii) 1.2.2 and 1.2.3  $A=B/1.29+C$
- b.  $S = D/E * W$  (Calculation for 1.1.3)
- i) S = The score applicable to this indicator. Black Management includes all levels of management.
  - ii)  $D = [(The\ portion\ of\ Skills\ Development\ Expenditure\ spent\ on\ Black\ Management\ divided\ by\ the\ portion\ of\ Skills\ Development\ Expenditure\ spent\ on\ Black\ People) /1.71] + (The\ portion\ of\ Skills\ Development\ Expenditure\ spent\ on\ Black\ Female\ Management\ divided\ by\ the\ portion\ of\ Skills\ Development\ Expenditure\ spent\ on\ Black\ People)$ . Multiply the result of the calculation with 100 to express in a percentage format.
  - iii) E= The target for this indicator (25%).
  - iv) W= The weight of this indicator.
- c. Total employees for the purpose of the calculation in paragraph 1.2.1 refer to the average number of employees over the measurement period. It does not refer to the total number at a particular point during the measurement period.
- d.  $V=Y/Z*X$  (Calculation for 1.2.3)
- i) V=The score applicable to this indicator.
  - ii)  $Y=[(The\ number\ of\ Black\ People\ with\ disabilities\ participating\ in\ Learnerships\ and/or\ Category\ B,\ C\ and\ D\ programmes\ divided\ by\ the\ number\ of\ Black\ Learnerships\ and\ Black\ Category\ B,\ C\ and\ D\ programme\ participants\ that\ form\ part\ of\ or\ will\ form\ part\ of\ office\ based\ staff)/1.29]+ (The\ number\ of\ Black\ Females\ with\ disabilities\ participating\ in\ Learnerships\ and/or\ Category\ B,\ C\ and\ D\ programmes\ divided\ by\ the\ number\ of\ Black\ Learnerships\ and\ Black\ Category\ B,\ C\ and\ D\ programme\ participants\ that\ form\ part\ of\ or\ will\ form\ part\ of\ office\ based\ staff)$ . Multiply the result of the calculation with 100 to express in a percentage format.
  - iii) Z= The target for this indicator (5%).
  - iv) X= The weight of this indicator.

- e. Calculations only relate to employees of the measured entity with the exception of the provision of 1.f.
  - f. Bursary related costs that can be included are limited to students that are currently employed or contractually obliged to work for the Measured Entity in the future. Furthermore this indicator will be subject to the same provision contained in paragraph 3.2, Code 400, P 55.
  - g. The review of targets related to Learnerships as indicated in paragraph 5.4.4 in the Section 12 Construction Transformation Charter will take place three years after the commencement date of this Statement.
2. Code 400
- a. Code 2400 shall adhere to all other principles, definitions and measurement methodologies contained in Code 400, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2400 shall take precedence over code 400 as published in the Government Gazette No 29617.
3. Mentorship
- a. Measurement of Mentoring
    - i) Compare the company mentor program with the provided list of criteria. If the program complies with the list of requirements below, it will qualify for recognition in the score card.
    - ii) The verification agent will evaluate the portfolio of evidence for the protégés against the list provided.
    - iii) The verification agent will randomly select a few protégés to interview to determine the effectiveness of the program.
    - iv) The verification agent will then sign off that the mentor program is compliant.
  - b. The following criteria constitute a mentor program and must be present in the Measured Entity
    - i. Each company must have one person in the company who is responsible and accountable for mentoring, called the mentor champion. In a larger company, this may be the chairman of a committee set up to manage a mentor program.
    - ii. Other criteria for the program include the following:
      - 1. The objectives and desired outcomes of the program
      - 2. The structure of the program
      - 3. The resources required and how they will be allocated
      - 4. Methods on how the protégés and mentors will be selected and matched

5. The training for the mentors and protégés on their responsibilities toward the mentor relationship, which may include communication skills and conflict handling
  6. The training necessary to support the mentoring
  7. The time frames for the implementation of the program
- iii. General portfolio of evidence to include the following
1. Monthly report to mentor champion on overall program (Internal progress review)
  2. CV of mentor champion
  3. Minutes of mentor committee meetings
  4. Plan of mentor program as indicated above
- iv. Individual portfolio of evidence for each protégé to include the following:
1. Minutes of meetings between protégés and their mentors including details of time, location and duration of meetings, topics discussed advice and guidance given and progress review on required development outcomes.
  2. Any training provided to support protégé development
  3. Attendance at mentor and protégé training for the program
  4. Individual development plan
  5. Development interventions
  6. Quarterly report on protégé benefits from mentor relationship
  7. Individual progress review on a quarterly basis against individual development plan
  8. Activities undertaken by the protégé including which departments the protégé worked in, details of job assignments and details of activities undertaken.

## Code Series 2500: Measurement of Preferential Procurement Element of Broad-Based Black Economic Empowerment

Statement 2500: The General Principle for Measuring Preferential Procurement

### 1. The Preferential Procurement Scorecard

Criteria	Weighting Points	Compliance Targets	
		0-4 Years	5-7 Years
1.1 B-BBEE Procurement Spend			
1.1.1 B-BBEE Spend on all Suppliers based on the B-BBEE Procurement Recognition Levels as a Percentage of Total Procurement Spend	12	50%	70%
1.1.2 B-BBEE Procurement Spend from Qualifying Small Enterprise or Exempted Micro Enterprise based on the applicable B-BBEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	3	10%	15%
1.1.3B-BBEE Procurement Spend from any of the following Suppliers as a percentage of Total Measured Procurement Spend:			
1.1.3.1 Suppliers that are 50% black owned.	3	9%	12%
1.1.3.2 Suppliers that are 30% black women owned.	2	6%	8%

### 2. Code 500

- a. In addition to the exclusion listed in Code 500, the BEP's will be permitted to exclude current facility rental contracts. This relaxation will be for contracts signed before the 1<sup>st</sup> of November 2005 and will be for a maximum period of the current contract and will exclude any extended and or altered contract conditions.
- b. Code 2500 shall adhere to all other principles, definitions and measurement methodologies contained in Code 500, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2500 shall take precedence over code 500 as published in the Government Gazette No 29617.

### Code Series 2600: Measurement of Enterprise Development Element of Broad-Based Black Economic Empowerment

Statement 2600: The General Principle for Measuring Enterprise Development

#### 1. Enterprise Development (ED) Scorecard

Criteria	Weighting Points		Compliance Target
	Contractors	BEP's	
<b>1.1 Enterprise Development Program</b>			
1.1.1 Compliance with the Requirements and Guidelines for an Enterprise Development Program (paragraph 2 and 3) for at least one recipient. The Measured Entity must submit an annual portfolio of proof indicating compliance with the pre-requisites as well as adherence to the Guidelines for an Enterprise Development Program.	5	5	Yes to all program requirements and pre-requisites
<b>1.2 Enterprise Development Contributions</b>			
1.2.1 Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of NPAT/Leviable Amount.	10	5	3% of NPAT (Contractor) 0.75% of Leviable Amount (BEP)

#### 2. Pre-requisites for an Enterprise development Relationship

- a. A relationship agreement of co-operation and assistance has to be in place between the established organization (EO) and developing organisation (DO).
- b. The EO may not have an equity holding larger than 20% in the DO, either directly or through a flow through calculation.
- c. The DO that can qualify for Enterprise Development must:
  - i. be a legal entity compliant with SA Revenue Service requirements;
  - ii. be an employer of at least three other permanently employed personnel and not merely a one person operation with temporary employees.
  - iii. Must be 50% or more black owned or 30% or more black women owned.

#### 3. Requirements for Enterprise Development Program

- a. The Measured Entity must have proof of compliance with the following five requirements before the relationship with a potential recipient of enterprise development will be labeled as an official enterprise development relationship attached to the Measured Entity (and points will be allowed for this indicator):

- i. Developed a Needs Analysis for the developing organisation (DO).
- ii. Generated a development program with milestones. At least three areas of development must have been identified per recipient applicable to the measurement period. The following areas can be targeted for development but is not limited to:
  - 1. Management and labour skills transfer
  - 2. Establishment of administrative systems
  - 3. Establishment of cost control systems
  - 4. Planning, tendering and programming skills transfer
  - 5. Business skills transfer with emphasis on entrepreneurial and negotiation skills
  - 6. Technical skills transfer with emphasis on innovation
  - 7. Legal compliance
  - 8. Procurement skills transfer
  - 9. Establish credit rating/history
  - 10. Establish financial loan capacity/history
  - 11. Contractual knowledge transfer.
- iii. Developed a schedule of activities to address the identified development areas. At least three areas must have been addressed per recipient applicable to the measurement period.
- iv. Allocated Resources for the Development of the developing organisation involved in the enterprise development relationship. These contributions will be captured in the indicator dealing with Enterprise Development Contributions and relates to the activities in the Benefit Factor Matrix in Annexe 600(A), Pg 70 of the DTI Codes. If no contributions were made within the year of measurement this requirement has not been met. The cumulative count based on previous years' contributions does not qualify.
- v. Appointed a champion for Enterprise Development. It must be an accountable and responsible person from at least senior management level within the Established Organisation (Measured Entity). This individual must be suitable qualified and experienced to monitor progress and complete a portfolio of proof

for activities i-iv for submission to a verification agent at the end of the measurement period.

4. Process of verification related to the Enterprise development Program in order to allocate 5 points (points allocated on all or nothing basis).
  - a. Verification Agents will:
    - i. Ensure that all the pre-requisites for an Enterprise Development Relationship have been met over the period of measurement in order to recognize the Enterprise Development Program.
    - ii. Ensure that the Enterprise Development Program complies with the requirements.
    - iii. Interview the DO owner and selected staff to verify Enterprise Development Program claims.
5. Focus on Developing Organisations:
  - a. The focus on ED should be on the development of entities in the construction sector and periphery. Examples are as follows (but not limited to):
    - i. Suppliers – suppliers of construction equipment, construction materials, hired plant/machinery and formwork and the like e.g. stationary, cleaning materials, electronic equipment etc.
    - ii. Professional service providers – auditing and financial service providers, legal services, services in the built environment professionals (architects, environmental consultants, engineering consultants, quantity surveyors, town planners, land surveyors, geologists, material testing laboratories) and other specialist consultants etc.
    - iii. Built environment service providers – contractors, (building, interior decorators, painting, civil, mechanical, electrical and electronic) specialist sub contractors. (Geotech, piling, asphalt, landscaping, fencing, road marking)
6. Notes on Calculation related to paragraph 1.2
  - a. Code 2600 shall adhere to all other principles, definitions and measurement methodologies contained in Code 600, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the

requirements of code 2600 shall take precedence over code 600 as published in the Government Gazette No 29617.

- b. Clause 1.2 is applicable as it appears in Code 600, P65-71 with the attached Annexes, measurement methodologies and principles.
- c. Category A and Category B contributions as referred to in Code 600 must be adjusted using the Benefit Factor, Annexe 600(A), P70. With reference to: 'Black Women Owned' in Category A and B beneficiaries, the minimum shareholding is 30%.
- d. The contributions related to this indicator is not limited to entities that are official recipients of Enterprise Development as per the requirements of the Enterprise Development Program prescribed in paragraph 1.1, though if no points are scored on clause 1.1: Enterprise Development Program, and contributions were made during the last measurement period, only 50% of these contributions will be allowed for calculation purposes after the benefit factor stipulated in the Benefit Factor Matrix (Annexe 600(A), p70 DTI Codes) has been calculated. This impact will be carried forward for the purpose of cumulative calculations, but will not impact on contributions made before the commencement of this Statement.

### Code Series 2700: Measurement of Socio Economic Development Element of Broad-Based Black Economic Empowerment

Statement 2700: The General Principle for Measuring Socio Economic Development

1. Socio Economic Development Scorecard

Criteria	Weighting	Compliance Target
Average annual value of all Socio Economic Development Contributions by the Measured Entity as a percentage NPAT/Leviable Amount.	5	1% of NPAT (Contractor) 0.25% of Leviable Amount (BEP)

1. Due to the limited absorption capacity of disabled employees by the sector the following two items are added to the Benefit Factor Matrix, Annexe 700(A), P76 of the Codes published in the Government Gazette no. 29617:

- a. In kind expenditure related to existing building and infrastructure facilities by Contractors to ensure accessibility to people with disabilities in line with universal design principles. The full cost of the modifications done in kind with a benefit factor of 115%.
- b. Consultation, in kind, with associations/NGO's relevant to people with disabilities to ensure that the designs of new as well as existing public infrastructure comply with universal design principles. The full amount of the time cost with a benefit factor of 115%.

2. Code 700

- a. Code 2700 shall adhere to all other principles, definitions and measurement methodologies contained in Code 700, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2700 shall take precedence over code 700 as published in the Government Gazette No 29617.

**Code Series 2800: Codes of Good Practice for Qualifying Small Enterprises (QSE's)**

Statement 2800: The Framework for the QSE Scorecard

## 1. The QSE Scorecard

- a. Eligibility for a QSE as articulated in paragraph 4 Statement 2000.
- b. There are no bonus point allocations in the QSE scorecard or sub-minimum requirements.
- c. Code 2800 shall adhere to all other principles, definitions and measurement methodologies contained in Code 800, Annexes and related Statements as been published in the Government Gazette no. 29617 and where there are any conflicts, the requirements of code 2800 shall take precedence over code 800 as published in the Government Gazette No 29617.

## 2. Statement 2801: Ownership for QSE's

## a. The QSE Ownership Scorecard

Category	Ownership Indicator	Weighting Points	Compliance Target
2.1 Voting Rights			
	2.1.1 Exercisable Voting Rights in the Enterprise in the hands of Black People	4	30%
	2.1.2 Exercisable Voting Rights in the Enterprise in the hands of Black Women	2	10%
2.2 Economic Interest			
	2.2.1 Economic Interest of Black People in the Enterprise	8	30%
	2.2.2 Economic Interest of Black Women in the Enterprise	4	10%
2.3 Realisation Points			
	2.3.1 Ownership fulfillment	1	
	2.3.2 Net Value	6	

## b. Notes on Calculation

- i. The Net Value calculation is applied as in Code 2100.
- ii. A minimum score of 6 points for Net Value is a requirement for the award of the Ownership Fulfillment point.
- iii. All principals defined in Code 2100 and Statement 801 apply to Code 2801

## 3. Statement 2802: Management Control for QSE's

## a. The QSE Management Control Scorecard

Category	Management Control Indicator	Weighting Points	Compliance Target
3.1 Top Management			
	3.1.1 Black representation at Senior Top-Management Level using the Adjusted Recognition for Gender	25	25% (0-4 Year) 40% (5-7 Year)

All principals defined in Code 2200 and Statement 802 apply to Code 2802

The Adjusted Recognition for Gender must be applied as in paragraph 1.2.1 of Code 2200.

## 4. Statement 2803: Employment Equity for QSE's

## a. The QSE Employment Equity Scorecard

Criteria	Weighting Points	Compliance Targets	
		Years 0 - 4	Years 5 - 7
Black Employees of the Measured Entity within all Management Categories as a percentage of all Employees in the Management Categories adjusted using the Adjusted Recognition for Gender	15	30%	40%
Black Employees of the Measured Entity as a percentage of all employees adjusted using the Adjusted Recognition for Gender.	10	60% (Contractors) 40% (BEP's)	70% (Contractors) 50% (BEP's)

All principals defined in Code 2300 and Statement 803 apply to Code 2803

The Adjusted Recognition for Gender must be applied as in paragraph 1.1.2 of Code 2300.

## 5. Statement 2804: Skills Development for QSE's

## a. The QSE Skills Development Scorecard

Skills Development Element	Weighting Points	Compliance Target
5.1 Skills Development Expenditure in respect of all employees on learning programmes as a percentage of Leviable Amount	10	1.5%
5.2 The portion of Skills Development Expenditure, spent on Black People, expressed as a percentage of total Skills Development Expenditure using the Adjusted Recognition for Gender.	15	70%

All principals defined in Code 2400 and Statement 804 apply to Code 2804

The Adjusted Recognition for Gender must be applied as in paragraph 1.1.2 of Code 2400.

## 6. Statement 2805: Preferential Procurement for QSE's

## a. The QSE Preferential Procurement Scorecard

Criteria	Weighting Points	Compliance Target
BEE Procurement Spend from all Suppliers based on the BEE Procurement Recognition Levels as a percentage of Total Measured Procurement Spend	25	40% (0-4 Year Target) 50% (5-7 Year Target)

All principals defined in Code 2500 and Statement 805 apply to Code 2805

## 7. Statement 2806: Enterprise Development for QSE's

## a. The QSE Enterprise Development (ED) Scorecard

Criteria	Weighting Points	Compliance Target
Average annual value of all Enterprise Development Contributions and Sector Specific Programmes made by the Measured Entity as a percentage of NPAT/Leviable Amount. All aspects of Code 600 are relevant to this indicator.	25	2% of NPAT (Contractor) 0.5% of Leviable Amount (BEP)

All principals defined in Code 2600 and Statement 806 apply to Code 2806

## 8. Statement 2807: Socio-Economic Development Contributions for QSE's

## a. The QSE Socio-Economic Development (SED) Scorecard

Criteria	Weighting Points	Compliance Target
Average annual value of all SED contributions and approved SED contributions made by the measured entity as a percentage of NPAT/Leviable Amount.	25	1% of NPAT (Contractor) 0.25% of Leviable Amount (BEP)

All principals defined in Code 2700 and Statement 807 apply to Code 2807

## Interpretations and Definitions

### Part 1: Interpretation

The Codes 2000-2800 related to the Construction Sector shall be interpreted according to the same provisions as provided for in the Interpretation section, P87 of Government Gazette No. 29617.

### Part 2: Definitions

All definitions will apply to Codes 2000-2800 related to the Construction Sector as it appear in the Definition section, P87-93 of Government Gazette No. 29617, read with the definitions listed below:

BEP	Built Environment Professional related enterprises which provide services related but not limited to consulting engineering, architecture and quantity surveying.
Contractor	Construction enterprise involved in the Construction Sector.
Construction Activities	The design, planning, expansion, creation and/or maintenance of fixed assets related to residential or non-residential buildings, infrastructure, or any other form of construction works in South Africa.
Construction Sector	All enterprises that are involved in the design, planning, expansion, creation and/or maintenance of fixed assets related to residential or non-residential buildings, infrastructure, or any other form of construction works in South Africa. This includes, but is not limited to: residential and non-residential building contractors, civil engineering contractors and built environment professionals.
Unincorporated Joint Venture	Means a Joint Venture between two or more Measured Entities affected by agreement without incorporation. This is a joint venture normally formed ad-hoc for a specific project, in which two or more parties share the obligations, risks and rewards.
Management	<p><b>Senior Management Category:</b> The heads of major functions not represented on the main board and within Senior Top Management and who are responsible for operational decisions.</p> <p><b>Middle Management Category:</b></p>

	<p>Middle management reporting to Senior management category, professionally qualified employees and experienced specialists.</p> <p><b>Junior Management Category:</b> The skilled technical &amp; academically qualified employees, junior management reporting to middle management, supervisors, foremen and superintendents.</p>
Mentorship	The process of assisting employees to gain further knowledge, experience and skills; it is an activity that can be successfully used where senior employees develop junior employees within a company to enhance their career development.
Office Based Employees	All staff who are based at the office. Generally this category of staff will be head-office staff in a contracting company. For BEP's it excludes staff that visits construction sites.

*Where there are any contradictions these definitions shall take precedence*

## **Substantiating Documentation**

### **Introduction**

The Construction Sector is a priority sector under the Department of Public Works and facilitates new fixed investment as well as the maintenance of existing infrastructure. In many instances the Sector is responsible for the creation of public goods like roads, airports, harbors and basic services. As a result of the nature of its activities the Sector interacts with Government on a daily basis through amongst other tendering procedures and as a result is subjected to Public Sector Procurement Policies.

Resulting from the provision of public goods the Sector is continually under close scrutiny to ensure prudent spending of tax payer's money. The Sector is also viewed as a strong employment creator. In addition to being first tier suppliers to Government it has an extended supplier base consisting of companies within the sector (sub-contractors) as well as various other sectors, which enable the Sector to exert considerable pressure down the supply chain.

With the above in mind the Sector developed a Sector Transformation Charter, which has been approved under Section 12 of the Broad Based Black Economic Empowerment Act 53 of 2003. It is however crucial that the Sector develop a Sector Code of Good Practice, which aligns with the Generic Code of Good Practice but retain Sector specific peculiarities. In this regard it is important to look at proposed Construction Codes within the context of the challenges faced by the sector.

### **Sector Dynamics**

The fragmented nature of the sector required that numerous major stakeholders participated in the development of the proposed Construction Codes. These stakeholders, their role and level of input in the process were articulated in the Section 12 application. It has been a process with distinct challenges and the targets and weightings agreed as a result carry with it the emotional buy in which can be associated with a negotiation process spanning several years. It has resulted in much greater cohesion, a sense of identity and a hope for greater ownership of transformation initiatives within the sector.

### **The Process**

The Section 12 Sector Transformation Charter was published in the government gazette in February 2007, the same day the Department of Trade and Industry Codes of Good Practice were published. Though not a prescript in the latest version of the Generic Codes, the Construction Sector decided to

continue with a comprehensive independent third party review to ensure an objective view on the level of alignment and compliance with Statement 003, Code 000 paragraph 3. The review was conducted by a Joint Venture consisting of Routledge Modise – and Mohlala Attorneys. The resultant report, completed in June 2007, articulated specific areas of concern and recommendations were made in accordance with the requirements of paragraph 3 (Statement 003).

The secretariat of the Construction Charter developed the proposed Construction Codes on the basis of the recommendations of the third party review as well as the intent that the Construction Codes should have the same structural format as the Generic Codes. Hence the Construction Codes is arranged from Code 2000-2800, covering the particular elements in a coordinated fashion with the Generic Codes. Areas of difference were articulated resulting from sector peculiarities. It was the specific intent of the secretariat to align in terms of intended beneficiaries, calculation methodologies albeit with sector specific nuances as well as format. It was crucial though that sector specific peculiarities were retained.

The proposed Construction Codes were circulated at the end of July and formally tabled to the various stakeholders on the 1<sup>st</sup> of August 2007. All stakeholders were afforded the opportunity to consult with their constituencies and request mandates for a follow-up meeting on the 15<sup>th</sup> of August 2007. At this occasion the proposed Codes were finalised. The point of departure was that the discussion on the 1<sup>st</sup> as well as the 15<sup>th</sup> was an alignment process and not a re-negotiation of agreed targets and weightings. In this regard agreed targets and weightings were retained as far as possible within the new format. The proposed Codes are in line with the original intent of all stakeholders that signed the Sector Charter.

### **Comparative Notes**

#### General Comments

1. The Construction Charter was structured according to a 7 year time-frame due to the importance and urgency of the transformation agenda in the sector. This was agreed by all parties.
2. Ownership has enjoyed substantial emphasis within the current Preferential Procurement Framework and as a result of the associated importance of redress the weighting is more pronounced than in the Generic Codes. This has an impact on the balance of attributed weighting points, which ultimately was an acceptable balance to the Sector.

3. No bonus points or sub-minimums appear in the Codes, which was in principle agreed at the start of the negotiation process. It is important that the agreed balance reflect the precise score achieved by the Measured Entity, without any bonus points/sub-minimums skewing the balanced score. This principle has been applied meticulously throughout the Proposed Codes.
4. The scope of application covers various industries within the sector that broadly aligns according to two disciplines namely the Built Environment Professionals and the Contracting fraternity. The proposed Codes differentiate in certain instances between these two disciplines on the basis of differentiated organizational structures and business models.

#### Weighting Analysis on the basis of the Generic Scorecards

Element	Weighting			Code Series
	Contractors	Built Environment Professionals	DTI Codes	Reference
Ownership	25	25	20	100/2100
Management Control	10	10	10	200/2200
Employment Equity	10	10	15	300/2300
Skills Development	15	20	15	400/2400
Preferential Procurement	20	20	20	500/2500
Enterprise Development	15	10	15	600/2600
Socio-Economic Development Initiatives	5	5	5	700/2700

1. The element weightings of the Generic DTI Codes and the Construction Codes align closely. Ownership enjoys a higher recognition within the Construction Codes for the reasons articulated above. The area of balance in the Construction Codes is Employment Equity which has a 5 point weighting less.
2. The variation in weighting particular to the BEP's entails a greater emphasis on Skills Development and a lesser focus on Enterprise Development. This caters for a particular

requirement of providing an incentive for training and development of professionals involved in the consulting engineering field, quantity surveying and architecture. The lesser emphasis on Enterprise Development is as a result of the nature of the businesses operating in the industry which in most cases require affiliation with professional bodies and a particular tertiary development before one can practice. The majority of entities in these disciplines are smaller practices with the same background hence limited ability to promote this element aggressively.

#### Code 2000

1. The scope of application is defined to ensure correct application of the Construction codes.
2. The Contracting fraternity aligns with the parameters of Exempted Micro Enterprises and Qualifying Small Enterprises as it appears in the DTI Codes. The BEP's have lower parameters as a result of being a services oriented industry with much lower annual turnover than the Contracting fraternity. This is to ensure a proper mix of application due to the fact that 90% of enterprises in this industry fall under the upper parameter of R35 million.
3. An unincorporated joint venture is a common project specific occurrence in the sector. In this regard a weighted combination of scorecards for tendering purposes in accordance with the shareholder agreement is proposed. This will deter fronting in the sector. The proposal only applies to unincorporated joint ventures and once a separate legal entity is formed it will require its own scorecard.
4. The Construction Codes will have a transitional phase in line with the calculation methodology proposed in the DTI codes. A different factor is required due to Ownership having a higher weighting than the DTI Codes.

#### Code 2100: Ownership

1. The Ownership element in the Construction Codes aligns exactly with the definition of beneficiaries, calculation methodology and format.

2. A higher target of 30% has been agreed in the Construction Codes which in combination with the higher weightings act as a specific incentive or catalyst for redressing ownership in the sector. This is a sector that is exposed to a high level of Government work and as a result unequal treatment of the past led to pronounced inequality of ownership.
3. The empowerment of employees received strong support from the Union bodies that participated in the Construction Charter process. This has particular merit in the Construction Sector as a sector that is highly labour intensive. The focus of negotiations was particularly to ensure that the benefit of equity ownership flows toward black employees in the sector. As a result the Construction Codes reflects a weighting of 5 and relatively high targets in comparison to the DTI codes in relation to equity benefits flowing to employees. The fact that the BEP's are less labour intensive is the reasoning behind a lower target (though still much higher than the DTI Code).

Code 2200: Management Control

1. Exercisable voting rights at board level receive a weighting of 5 in the Construction Codes and has a target of 40%. Technically qualified specialist are best suited to serve in all management categories of construction sector companies which inevitably positions them well for future board representation. Prescriptions of the level of ownership to be held by professionals in the BEP disciplines combined with the aforementioned impacted on the agreement of a final target with regard to Board Level. The explanation related to employment equity will further assist to understand the challenge faced in this regard. The corresponding DTI target after 7 years would be 35% if one take straight line compliance from a zero base over the ten year period.
2. The calculation methodology related to adjusted recognition for gender has been adopted, though the Construction Sector can not be dealt with in the same way as the retail sector or most other purely office based sectors which traditionally has high levels of women representation. It is unfortunate but there are preconceptions with the Construction Sector which detract from the appeal that the sector might have to women. Studies also reflect a very low level of black female representivity in the sector, particularly at technical specialist level. Various bodies representing women in the

construction sector attended negotiations and made a strong case for higher levels of representation. However in the light of status quo they agreed to the specific targets for black women in relation to black people as they appear in the Section 12 Charter. Hence though the Construction Codes adopted the Adjusted Recognition for Gender principle the denominator used reflect the agreed ratio, which is lower than 50% as proposed by the DTI Codes. This approach applies to all areas where the Adjusted Recognition for Gender has been applied.

3. Board participation in the Construction Codes does not distinguish between Executive and Non-Executive directors, which according to the King Report share equal responsibilities in line with good corporate governance. The fact that the Construction Charter does not have any bonus points also disallow for recognition of any non-executive directors related to the board (as it appears in the DTI Codes). It is also the view that control is influenced by voting rights. The amount of executive directors is irrelevant to control as more than 50% voting could be held by an individual. This could prejudice existing black owned Measured Entities.
4. Top management and related definitions were accepted in the Construction Codes. The ultimate target of 40% equals that of the DTI Codes, though an interim target was approved by the Minister of Public Works in the light of the shortage of technically skilled people in the field. The Adjusted Recognition for Gender principle is applied. The weighting attributable is 5, as this element contains all management higher than Senior Management. In effect it constitutes the same requirement as the DTI Codes. The fact that a large percentage of companies in the sector would be confused by the hierarchical levels proposed in the DTI Codes including Board, Top, Other Top, Senior, Middle and Junior management led to the exclusion of Other Top management for simplicity sake (without compromising on the intent).

#### Code 2300: Employment Equity

1. The element weighting for Employment Equity is 5 points lower than in the DTI Codes, which inevitably has a bearing on the comparative indicator weightings.
2. The same calculation methodologies have been adopted related to the Adjusted Recognition for Gender (aligned with agreed ratios). Please see: Needs and Numbers,

written by Allyson Lawless and Published by the South African Institute of Civil Engineering, Chapter 7, P163. In South Africa women constitute 4% of professional civil engineers. Figures 7.22, 7.23 and 7.24 articulate the low levels of women representation within civil engineering, technologists and technicians. Though there has been an increase in female graduations, the lead time for sufficient experience to serve on particularly middle and junior management spans more than the time-frame of seven years. Though there will be exceptions to the above, on average the representation of black women in middle and junior management over time is expected to be lower than the agreed targets in the Section 12 Charter. It is therefore proposed that the ratio related to black women representation in the Construction Codes be accepted.

3. Black disabled employees were introduced as a particular beneficiary in line with the DTI Codes. The weighting and targets relevant to this indicator is lower than the DTI Codes. Discussion with the National Council for the Physically Disabled revealed that Construction is associated with a riskier environment. No statistics exist related to the representivity of people with disabilities in the sector. As a result the agreed targets are lower though the Charter Council will be tasked to monitor representation of disabled people and make recommendations should it be required. The calculation for this indicator is limited to office based staff due to the fact that site related work for disabled could be hazardous to their health. This was supported by the Council.
4. The indicators for Senior, Middle and Junior Management Categories exist in the Construction Codes relevant to the Contracting fraternity. Due to the nature of BEP business model the applicable bands of management are: Board level, Top Management and Management. This is as a result of the flat and integrated management approach in these entities, which mostly employ tertiary qualified people who performs highly specialized and technical functions. The BEP's are subject to the requirement for Black employees with disability.
5. The Construction Codes adopt the same approach as the DTI Codes to the consolidation of Middle management into Senior and Junior management.
6. The targets in the Construction Codes relevant to Employment Equity are consistently lower than the targets in the DTI Codes. This must be evaluated within the context of

the sector, its pool of available resources and an understanding of the flow dynamics relevant to this pool. Due to the specialized nature of activity related to the safe establishment of fixed infrastructure like large shopping mall, bridges, hospitals and numerous other examples; the particular onus on entities in the sector is to employ people at operational management level with the relevant experience and specialist background. This is not an area where compromise can be allowed.

In this regard reference must be made again to the book, Needs and Numbers written by Allyson Lawless to articulate the current imbalances in the civil engineering profession. The content of the book is accepted as authoritative and accurate by amongst other the Department of Education. Some of the research for the book was done in conjunction with the Construction Charter initiative. Chapter 7, P159 covers the topic of Transformation and in particular figures: 7.15, 7.16 and 7.17 indicate the black/white split across the various age groups related to civil engineers, technicians and technologists.

The negotiating parties considered the evidence cited above during the process of negotiations. In actual fact the general feeling was that lower targets, than the ones agreed, should be adopted if based on status quo research. In this light the role of the target itself was analysed and it was agreed that the target should not only be informed by status quo research but should also act as a catalyst to bring about change. If based solely on status quo it will not challenge entities sufficiently though on the other hand, set to high it will lead to despondency. The agreed targets exceed analysed targets generated by taking status quo as well as a future scenario study (taking increased graduation across race groups over the short term future) into consideration.

Ultimately the target that was agreed is much more than just a figure; it signifies a common goal that is the result of a collective effort.

#### Code 2400: Skills Development

1. The Construction Code adopted the specifications of Skills Development Expenditure, the Learning Program Matrix and Leivable amount as denominator. The Adjusted Recognition for Gender principle is applied (with sector agreed ratios).

2. The Construction Code deviates from the overall approach followed by the DTI Codes, though it is aligned in terms of beneficiaries and calculation methodology.
3. The particular approach accommodates sector peculiarity. The construction sector is an extremely volatile sector reacting in different ways on market signals across its various industries. The building industry for example is very sensitive to interest rate changes, whereas the civil engineering industry is rather immune to the short term effect of interest rate volatility but extremely sensitive to Government spending. The past 25 years signifies these vulnerabilities to different forces and as a result skills development is a cyclical imperative. The point of departure in actual fact is: Training is part of a company's economic responsibility and imperative to be a competitive player in the construction market. This sector is all about expertise. Therefore promoting purely training spend in monetary terms will recognize and promote something that is already a basic economic imperative for a company in the sector. In addition setting a monetary target alone in terms of Leivable amount will limit an entities ability to balance the work that must be done and the training requirement set.

As an example a building subcontractor is labour intensive (hence, relative large Leivable amount). A pure monetary-contribution related goal, irrespective of the state of economic climate and the training already done amongst staff will be lead to despondence.

In this regard the Construction Sector opted for an approach that takes cognisance of the importance of training, but allows entities to claim the majority of points as long as the demographic representation of the training that is done, is in accordance with the agreed sector targets.

Due to the arguments articulated under employment equity, the sector acknowledges that there are low levels of representation in middle to senior top management. As a result a particular incentive has been provided for the training of management as well as for the implementation of a mentor program that is aiming to fast track young professional into management.

The Construction Codes balanced the Skills Development section in such a way that it would promote the development of young people. The majority of the weighting is

related to Learnerships, bursaries and mentoring, all areas directly advancing young people. Again this is crucial in the light of current skills related challenges faced by the sector.

4. Disabled people are included as a specific beneficiary, but again within the ambit of office based staff.
5. The target related to Skills development expenditure is lower than the DTI target on the basis of the relatively high labour intensive nature of the sector which results in a high Leviable amount. The sector by nature has a high turnover with low margins. The total income generated in 2004 (excluding BEP's) was R100 billion, total gross salaries and wages were R16.1 billion and the total net profit before tax was R3.9 billion (3.9%) (Statistical Release P5001, 1 December 2005). Hence the target of 1.5% (of Leviable amount) Skills Development Expenditure equates more or less to R241.5 million rand excluding the 1% skills levy. This is 6.2% of net profit before tax required to be spent on training. In sectors which are not labour intensive, but yield much higher profits as a percentage of Turnover the DTI target of 3% will be appropriate. The Construction Codes contains the agreed target of 1.5% of Leviable amount.
6. Learnerships are acknowledged, though using total employees as denominator must be seen within the labour intensive context of construction. The targets agreed are lower than the DTI, but will compare well to any other sector in terms of resultant volume of Learnerships addressed.
7. Bursaries receive particular attention, again to accentuate the plight related to attracting young people to the Sector.

#### Code 2500: Preferential Procurement

1. The Construction Codes aligns 100% with the DTI Codes.

#### Code 2600: Enterprise Development

1. Enterprise Development has a weighting of 15 for Contractors and 10 for BEP's respectively for reasons articulated previously in the document. The Construction Code adopted a particular approach which will ensure that a formalized relationship

exist between an Established Organisation and a Developing Organisation. This is crucial to ensure greater sustainability of Enterprise development in the sector.

2. Over and above the requirement for a formal relationship, the Construction Codes aligned with the DTI Codes relating to monetary and non-monetary contributions. The only difference in scoring is that an entity in the sector will be penalized if within the year of making qualifying contributions it does not meet the requirements for a formalized relationship.
3. The target related to qualifying contributions aligns with the DTI as 3% of NPAT. For the BEP's however, who for the most is structured according to a partnership or private practice, NPAT can be manipulated. Therefore by their own request and agreement the target of 3% of NPAT is expressed as 0.75% of Leviable amount, which will provide a uniform basis for calculation. This argument is applicable to all areas where a target is expressed as a percentage of NPAT.

#### Code 2700: Socio Economic Development

1. The Construction Code align with the DTI Code with regard to this element.
2. The BEP's express their target as a percentage of Leviable amount for reasons indicated above.
3. Two extra items have been added to the Benefit Factor Matrix in Annexe 700(A). The reason being that the Sector can make a difference regarding ensuring accessibility of existing and new public buildings for people with disabilities. The fact that more than 75% of the disabled community is black in South Africa aligns these items with the requirement articulated in the DTI Codes. In addition the sector has a limited capacity to absorb people with disability in the workforce, so this provides for an additional way in which the sector can benefit the disabled community. This is also a particular priority for the Department of Public Works.

#### Code 2800: Qualifying Small Enterprise Scorecard

1. The size parameters for QSE have been explained under Code 2000. There is alignment with the DTI Codes, though the BEP's differ.

2. Code 2801: Women are recognized in the QSE scorecard but not in the DTI Code. Over and above this the format is the same as the DTI Code. The weighting differ due to the fact that the Construction Code counted 25 right from the start and the weighting related to equity ownership specific to broad based remained in the same indicator (divided between black people and black women) for the purpose of the QSE scorecard.
3. Code 2802: The format is aligned though Adjusted Recognition for Gender is applied in the Construction Code. The target is aligned with Code 2200.
4. Code 2803: The format is the same and targets are based on Code 2300 and industry dynamics. Where possible it align with the DTI Codes.
5. Code 2804: This code is based on Code 2400 due to industry peculiarity.
6. Code 2805: This code is aligned.
7. Code 2806: This code is aligned though the target for BEP is in terms of Leviable amount.
8. Code 2807: This code is aligned though the target for BEP is in terms of Leviable amount. The additional items as indicated under Code 2700 are applicable.

### **Concluding Remarks**

The Construction Codes aligns very closely to the DTI Codes. The differences are on the basis of specific sector challenges and peculiarities. The Construction Sector invested a huge amount of resources to ensure that the final proposed Construction Codes complies with requirements.

One could approach supporting arguments for the document from an emotional, statistical or economic high ground. In the end it would suffice to say that this document and the successful finalizing of a sector Code signify the single biggest step in unifying the sector. It carries with it the weight of endless hours, days, months and years of cooperation amongst all stakeholders in an attempt to make transformation a reality.